

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The purpose of these amendments is to update administrative rules to decrease the average statewide cost of nursing facility services to a private-pay person. The figure is being revised to reflect the decrease in the cost of private-pay rates for nursing facility care in Iowa. The change is not related to rates paid by Medicaid for nursing facility care.

The figure is used to determine a period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual is ineligible for Medicaid payment of long-term care services. The period of ineligibility is determined by dividing the amount transferred by the average statewide cost of nursing facility services to a private-pay person.

The Department conducted a survey of freestanding nursing facilities, hospital-based skilled facilities, and special population facilities in Iowa to update the average statewide cost for nursing facilities. The average private-pay cost of nursing facility services decreased from \$5,131.82 to \$5,057.65.

In addition, these amendments update administrative rules for the average private-pay charges for nursing facility care, which are used to determine the disposition of the income of a medical assistance income trust (MAIT). These amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department’s survey for average statewide private-pay charges at nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey, since recipients are allowed to use the average cost of the specialized care.

This decrease in the average statewide private-pay charges at nursing facilities may result in fewer individuals who qualify for medical assistance with Miller trusts. However, very few, if any, individuals in nursing facilities will have monthly income between the old and new amounts.

The average statewide cost of care and maximum charge rates for other medical institutions are not addressed in this rule making because those average charges increased. The increase in those charges confers a benefit to recipients. Therefore, those changes are addressed in separate rule making (see **ARC 0690C** herein).

Any interested person may make written comments on the proposed amendments on or before May 7, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These rules do not contain waiver provisions because everyone should be subject to the same amounts set by this rule. Individuals may request an exception pursuant to the Department’s general rule on exceptions to policy at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) Period of ineligibility. The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual’s spouse)

on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2012~~ 2013, through June 30, ~~2013~~ 2014, this average statewide cost shall be ~~\$5,131.82~~ \$5,057.65 per month or ~~\$168.81~~ \$166.37 per day.

ITEM 2. Amend subparagraph **75.24(3)“b”(1)** as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,762~~ \$4,642 per month.